



Journal of the Senate

State of Indiana

115th General Assembly

Second Regular Session

Twelfth Meeting Day

Monday Afternoon

February 4, 2008

The Senate convened at 1:34 p.m., with the President Pro Tempore of the Senate, David C. Long, in the Chair.

Prayer was offered by Senator John E. Broden.

The Pledge of Allegiance to the Flag was led by Senator Broden.

The Chair ordered the roll of the Senate to be called. Those present were:

Alting <input checked="" type="checkbox"/>	Long
Arnold	Lubbers
Becker	Meeks
Boots	Merritt
Bray	Miller
Breaux	Mishler
Broden	Mrvan
Charbonneau	Nugent
Deig	Paul
Delph	Riegsecker
Dillon	Rogers
Drozda	Simpson
Errington	Sipes
Ford <input checked="" type="checkbox"/>	Skinner
Gard	Smith
Hershman	Steele
Howard <input checked="" type="checkbox"/>	Tallian
Hume	Walker
Jackman	Waltz
Kenley	Waterman
Kruse	Weatherwax
Lanane	Wyss
Landske	Young, M.
Lawson	Young, R.
Lewis	Zakas

Roll Call 180: present 47; excused 3. [Note: A ☒ indicates those who were excused.] The Chair announced a quorum present. Pursuant to Senate Rule 5(d), no motion having been heard, the Journal of the previous day was considered read.

INTRODUCTION OF BILLS

The following bills and resolutions were read a first time by title and referred to the respective committees:

HB 1118 — Riegsecker, Becker (Commerce, Public Policy & Interstate Cooperation)

A BILL FOR AN ACT to amend the Indiana Code concerning alcohol and tobacco.

HB 1193 — Tallian (Education and Career Development)

A BILL FOR AN ACT to amend the Indiana Code concerning

education.

HB 1203 — Paul, Skinner (Homeland Security, Transportation & Veterans Affairs)

A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.

HB 1209 — Waterman, Dillon, Smith, Tallian (Corrections, Criminal, and Civil Matters)

A BILL FOR AN ACT concerning sentences for habitual offenders.

HB 1210 — Sipes, Rogers (Education and Career Development)

A BILL FOR AN ACT to amend the Indiana Code concerning education.

HB 1213 — Kruse (Pensions and Labor)

A BILL FOR AN ACT to amend the Indiana Code concerning labor and safety and to make an appropriation.

HB 1220 — Charbonneau, Tallian, Kenley (Tax and Fiscal Policy)

A BILL FOR AN ACT to amend the Indiana Code concerning taxation and to make an appropriation.

HB 1224 — Meeks, Becker (Appropriations)

A BILL FOR AN ACT to amend the Indiana Code concerning gaming.

HB 1244 — Lawson (Tax and Fiscal Policy)

A BILL FOR AN ACT to amend the Indiana Code concerning education and local government.

HB 1249 — Wyss, Alting, Tallian, Paul (Homeland Security, Transportation & Veterans Affairs)

A BILL FOR AN ACT to amend the Indiana Code concerning higher education.

HB 1253 — Boots (Homeland Security, Transportation & Veterans Affairs)

A BILL FOR AN ACT to amend the Indiana Code concerning utilities and transportation.

HB 1259 — Becker, Breaux, Howard (Judiciary)

A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

HB 1266 — Riegsecker, Simpson, Miller, Rogers (Health and Provider Services)

A BILL FOR AN ACT concerning human services.

HB 1269 — Dillon, Drozda, Tallian, Arnold, Broden, Deig (Pensions and Labor)

A BILL FOR AN ACT to amend the Indiana Code concerning labor and safety.

HB 1271 — Sipes (Corrections, Criminal, and Civil Matters)
A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

HB 1055 — Gard, Rogers, Charbonneau (Health and Provider Services)
A BILL FOR AN ACT to amend the Indiana Code concerning insurance.

HB 1090 — Gard (Utilities & Regulatory Affairs)
A BILL FOR AN ACT to amend the Indiana Code concerning environmental law.

HB 1101 — Steele, Waterman, Hume, Jackman (Utilities & Regulatory Affairs)
A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

HB 1113 — Bray (Corrections, Criminal, and Civil Matters)
A BILL FOR AN ACT to amend the Indiana Code concerning health.

HB 1162 — Lawson, Simpson (Local Government and Elections)
A BILL FOR AN ACT to amend the Indiana Code concerning local government.

HB 1204 — Kruse, Meeks, Steele, Tallian (Homeland Security, Transportation & Veterans Affairs)
A BILL FOR AN ACT to amend the Indiana Code concerning public safety and to make an appropriation.

HB 1219 — Kruse (Pensions and Labor)
A BILL FOR AN ACT to amend the Indiana Code concerning labor and safety.

HB 1234 — Charbonneau, Sipes (Education and Career Development)
A BILL FOR AN ACT to amend the Indiana Code concerning education.

HB 1273 — Waterman, Wyss, Skinner, Arnold (Appropriations)
A BILL FOR AN ACT to amend the Indiana Code concerning public safety and to make an appropriation.

HB 1286 — Gard, Deig (Local Government and Elections)
A BILL FOR AN ACT to amend the Indiana Code concerning local government.

HB 1290 — Lawson, Becker, Sipes, Tallian (Judiciary)
A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

HB 1292 — Smith (Commerce, Public Policy & Interstate Cooperation)
A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

RESOLUTIONS ON FIRST READING

Senate Concurrent Resolution 29

Senate Concurrent Resolution 29, introduced by Senators

Paul and Wyss:

A CONCURRENT RESOLUTION commending the Indiana National Guard for its defense of the United States and service to the State of Indiana.

Whereas, The charter for the Indiana National Guard lies in the United States Constitution which designates the Governor as commander-in-chief to provide for the security and well-being of the state's citizens and provides for the Guard to be called into federal service under control of the President of the United States in times of national crisis;

Whereas, The Indiana National Guard traces its history and lineage to 1801, older than the state itself, when volunteer militia companies were organized as protection for pioneers and settlers. Since its inception, members have served the nation in every major conflict since the American Civil War. The state's soldiers and airmen remain trained, ready, and prepared for response in time of state, national, or international emergencies;

Whereas, Forefathers of today's 151st Infantry Battalion fought with General William Henry Harrison at the Battle of Tippecanoe in 1811 when the great Shawnee Chief, the Prophet, was defeated. Indiana militia units have been called to service in the Mexican War, during the Civil War, and the Spanish-American War;

Whereas, In 1916, the entire Indiana National Guard was mobilized for service in World War I with the majority of the new 38th (Cyclone) Division coming from Indiana units. These units were eventually deployed to France where Indiana's 150th Field Artillery Regiment fought with distinction;

Whereas, During World War II, the 38th Infantry Division earned combat streamers for three campaigns in the Southwest Pacific, including spearheading the landings on Luzon in the Philippines that regained the Bataan Peninsula from the Japanese. For that, General Douglas MacArthur christened the 38th as the "Avengers of Bataan";

Whereas, Indiana Air National Guard units were mobilized and served during the Korean War in the early 1950's and the Berlin Crisis in the early 1960's. Company D (Ranger), 151st Infantry, was mobilized during the Vietnam War and earned distinction as one of the most highly decorated combat units of the war;

Whereas, Recently, personnel were called into service in support of Operations Desert Shield/Storm and today men and women of the Indiana National Guard are serving in the Middle East in Operation Enduring Freedom in Afghanistan and Operation Iraqi Freedom in Iraq;

Whereas, Indiana National Guard members, past and present, serve overseas in peacetime operations promoting human rights and goodwill in Germany, Haiti, Hungary, Italy, Kuwait, and South Korea. Guard members also directly assisted the people

and government of Slovakia and its role in gaining NATO (North Atlantic Treaty Organization) recognition;

Whereas, The Indiana National Guard, throughout its history, has maintained a forward presence in the state enabling response to the needs of each of our communities and citizens, including providing support to drought-stricken areas, sheltering citizens in time of need, responding to disaster areas, transporting supplies and medical patients, ensuring transportation capabilities and open emergency routes, containing flood waters, assisting with rescue relief and aid to sister states. The Guard stands ready to respond to future crisis, protecting life and property, in times of all natural and man-made disasters; and

Whereas, Indiana is presently the fourth largest Guard state, having an approximate strength of 12,500 men and women, representing every county and social background in the state. The Guard employs approximately 4,000 full-time employees across the state. It has responsibility for twelve billion dollars in infrastructure and brings an annual revenue to the State of Indiana approaching one billion dollars: Therefore,

Be it resolved by the Senate of the General Assembly of the State of Indiana, the House of Representatives concurring:

SECTION 1. That the Indiana General Assembly hereby honors the Indiana National Guard and the men and women who serve as members for their commitment to excellence and determination to help those who face crisis or are in need. The Guard members are entrusted to strengthen and ensure the readiness of our State and Nation and we commend them for bringing great credit and an exemplary reputation to the State of Indiana.

SECTION 2. The Secretary of the Senate is hereby directed to transmit a copy of this Resolution to the Indiana National Guard and Adjutant General, Major General R. Martin Umbarger.

The resolution was read in full and adopted by voice vote. The Chair instructed the Secretary to inform the House of the passage of the resolution. House sponsors: Representatives Grubb and Reske.

SENATE MOTION

Madam President: I move that Senators Alting, Arnold, Becker, Boots, Bray, Breaux, Broden, Charbonneau, Deig, Delph, Dillon, Drozda, Errington, Ford, Gard, Hershman, Howard, Hume, Jackman, Kenley, Kruse, Lanane, Landske, Lawson, Lewis, Long, Lubbers, Meeks, Merritt, Miller, Mishler, Mrvan, Nugent, Riegsecker, Rogers, Simpson, Sipes, Skinner, Smith, Steele, Tallian, Walker, Waltz, Waterman, Weatherwax, M. Young, R. Young, and Zakas be added as coauthors of Senate Concurrent Resolution 29.

PAUL

Motion prevailed.

Senate Concurrent Resolution 31

Senate Concurrent Resolution 31, introduced by Senator Boots:

A CONCURRENT RESOLUTION honoring and commending the United States soldiers who bravely served their country in the Vietnam War.

Whereas, On March 19, 1973, thirty-five years ago, 2,500 troops were withdrawn from South Vietnam, ending military involvement in what is to date the longest war in our country's history;

Whereas, Due to the unpopularity of this war, the men and women who survived and the 58,195 brave souls who fought and died were never given the respect and gratitude that they deserved;

Whereas, 1,531 of the names listed on the Vietnam Veterans Memorial Wall are from the great State of Indiana. These men and women were heroes and deserve our thanks for their unselfish devotion to duty; and

Whereas, The Indiana General Assembly recognizes the bravery and service of all those who fought in Vietnam and expresses its gratitude for their willingness to serve our country: Therefore,

Be it resolved by the Senate of the General Assembly of the State of Indiana, the House of Representatives concurring:

SECTION 1. That the Indiana General Assembly honors and commends the United States soldiers who bravely served their country in the Vietnam War.

SECTION 2. The Secretary of the Senate is directed to transmit a copy of this Resolution to the State of Indiana VFW and the National Headquarters of the American Legion.

The resolution was read in full and adopted by voice vote. The Chair instructed the Secretary to inform the House of the passage of the resolution. House sponsor: Representative Grubb.

SENATE MOTION

Madam President: I move that Senators Alting, Arnold, Becker, Bray, Breaux, Broden, Charbonneau, Deig, Delph, Dillon, Drozda, Errington, Ford, Gard, Hershman, Howard, Hume, Jackman, Kenley, Kruse, Lanane, Landske, Lawson, Lewis, Long, Lubbers, Meeks, Merritt, Miller, Mishler, Mrvan, Nugent, Paul, Riegsecker, Rogers, Simpson, Sipes, Skinner, Smith, Steele, Tallian, Walker, Waltz, Waterman, Weatherwax, Wyss, M. Young, R. Young, and Zakas be added as coauthors of Senate Concurrent Resolution 31.

BOOTS

Motion prevailed.

Senate Resolution 5

Senate Resolution 5, introduced by Senator Paul:

A SENATE RESOLUTION to commend Lt. General Harold G. Moore on authoring the book, "We Were Soldiers Once...and Young".

Whereas, Lieutenant General Harold G. Moore, born in Kentucky, graduated from the United States Military Academy at West Point, and later completed graduate work at George Washington and Harvard Universities, earning a Master's Degree in International Relations;

Whereas, Lt. General Moore was a master parachutist, an Army aviator, the commander of two infantry companies in the Korean War, and a battalion and brigade commander in Vietnam;

Whereas, After 32 years of service, Lt. General Moore retired from the Army in 1977. He then spent four years as executive vice president of the Crested Butte Ski Area in Colorado and later went on to found a computer software company;

Whereas, Lt. General Moore and journalist, Joseph L. Galloway joined together to author a nonfiction work describing the Battle of Ia Drang, a significant battle that took place during the Vietnam War. After interviewing hundreds of men who fought in this battle, they worked together to depict the story from the perspective of those who were there; and

Whereas, The book "We Were Soldiers Once...and Young" became a New York Times bestseller that has been praised by General H. Norman Schwarzkopf. In addition, the book was later made into a movie by the same title in which Mel Gibson portrays Lt. General Hal Moore: Therefore,

Be it resolved by the Senate of the General Assembly of the State of Indiana:

SECTION 1. The Indiana State Senate hereby commends Lt. General Harold G. Moore on his work, "We Were Soldiers Once...and Young".

SECTION 2. The Secretary of the Senate is hereby directed to transmit a copy of this Resolution to Lieutenant General Harold G. Moore.

The resolution was read in full and adopted by voice vote.

SENATE MOTION

Madam President: I move that Senators Alting, Arnold, Becker, Boots, Bray, Breaux, Broden, Charbonneau, Deig, Delph, Dillon, Drozda, Errington, Ford, Gard, Hershman, Howard, Hume, Jackman, Kenley, Kruse, Lanane, Landske, Lawson, Lewis, Long, Lubbers, Meeks, Merritt, Miller, Mishler, Mrvan, Nugent, Riegsecker, Rogers, Simpson, Sipes, Skinner, Smith, Steele, Tallian, Walker, Waltz, Waterman, Weatherwax,

Wyss, M. Young, R. Young, and Zakas be added as coauthors of Senate Resolution 5.

PAUL

Motion prevailed.

Senate Concurrent Resolution 28

Senate Concurrent Resolution 28, introduced by Senator Deig:

A CONCURRENT RESOLUTION honoring the men and women from Indiana who have fallen in Afghanistan and Iraq since January, 2002.

Whereas, Our country was founded on the service of brave men and women who have stepped forward to defend and secure liberty and democracy for all its citizens;

Whereas, This nation owes its very existence to the willingness of its citizens to demonstrate true patriotism and to lay down their lives for these ideals;

Whereas, The men and women of the Armed Forces from Indiana have bravely and honorably fought and given their lives defending the freedom of the United States of America, following in the footsteps of previous generations; and

Whereas, In making this ultimate sacrifice, the men and women of the Armed Forces from Indiana have left behind parents, children, brothers, sisters, and other loved ones: Therefore,

Be it resolved by the Senate of the General Assembly of the State of Indiana, the House of Representatives concurring:

SECTION 1. That the General Assembly hereby honors the brave men and women from Indiana who have honorably fought and made the ultimate sacrifice in Afghanistan and Iraq since January, 2002.

SECTION 2. That the Secretary of the Senate transmit a copy of this resolution to the family members of the fallen men and women from Indiana.

The resolution was read in full and adopted by standing vote. The Chair instructed the Secretary to inform the House of the passage of the resolution. House sponsor: Representative Reske.

SENATE MOTION

Madam President: I move that Senators Alting, Arnold, Becker, Boots, Bray, Breaux, Broden, Charbonneau, Delph, Dillon, Drozda, Errington, Ford, Gard, Hershman, Howard, Hume, Jackman, Kenley, Kruse, Lanane, Landske, Lawson, Lewis, Long, Lubbers, Meeks, Merritt, Miller, Mishler, Mrvan, Nugent, Paul, Riegsecker, Rogers, Simpson, Sipes, Skinner, Smith, Steele, Tallian, Walker, Waltz, Waterman, Weatherwax,

Wyss, M. Young, R. Young, and Zakas be added as coauthors of Senate Concurrent Resolution 28.

DEIG

Motion prevailed.

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has passed House Concurrent Resolution 10 and the same is herewith transmitted for further action.

CLINTON MCKAY
Principal Clerk of the House

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has passed Engrossed House Bill 1118 and the same is herewith transmitted to the Senate for further action.

CLINTON MCKAY
Principal Clerk of the House

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has passed Engrossed House Bills 1259, 1266, and 1271 and the same are herewith transmitted to the Senate for further action.

CLINTON MCKAY
Principal Clerk of the House

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has passed Engrossed House Bill 1219 and the same is herewith transmitted to the Senate for further action.

CLINTON MCKAY
Principal Clerk of the House

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has passed Engrossed House Bills 1162, 1290, 1292, 1204, 1101, 1286, 1234, 1113, 1090, 1055, and 1273 and the same are herewith transmitted to the Senate for further action.

CLINTON MCKAY
Principal Clerk of the House

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has passed Engrossed House Bills 1329, 1379, 1184, 1275, and 1341 and the same are herewith transmitted to the Senate for further action.

CLINTON MCKAY
Principal Clerk of the House

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has passed Engrossed House Bills 1107, 1246, 1284, 1310, and 1360 and the same are herewith transmitted to the Senate for further action.

CLINTON MCKAY
Principal Clerk of the House

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has passed Engrossed House Bills 1170, 1187, 1250, 1276, 1280, 1318, and 1359 and the same are herewith transmitted to the Senate for further action.

CLINTON MCKAY
Principal Clerk of the House

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has passed Engrossed House Bills 1036, 1105, 1134, 1196, and 1288 and the same are herewith transmitted to the Senate for further action.

CLINTON MCKAY
Principal Clerk of the House

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has passed Engrossed House Bills 1042, 1319, 1293, 1097, 1245, 1293, and 1297 and the same are herewith transmitted to the Senate for further action.

CLINTON MCKAY
Principal Clerk of the House

RESOLUTIONS ON FIRST READING

House Concurrent Resolution 10

House Concurrent Resolution 10, sponsored by Senator Walker:

A CONCURRENT RESOLUTION congratulating Tony Stewart on winning the 2007 Allstate 400.

Whereas, Throughout his career Tony Stewart has proven to be a champion every step of the way;

Whereas, Tony Stewart has added another rung to his ladder of success by winning the 2007 Allstate 400;

Whereas, Tony Stewart was born in Columbus, Indiana, and grew up dreaming of racing in the Indianapolis 500;

Whereas, Tony Stewart accomplished this dream and established himself as one of the great names in racing;

Whereas, Tony Stewart began his career at age seven racing go-karts while his father, Nelson, acted as his car owner and crew chief;

Whereas, At eight years old Tony Stewart won his first championship, a four-cycle rookie junior class championship at the Columbus Fairgrounds;

Whereas, Tony Stewart went on to win the International Karting Federation Grand National championship and the World Karting Association National championship;

Whereas, In 1989 Tony Stewart moved from racing go-karts to racing higher-horsepower, open-wheel machines;

Whereas, Tony Stewart was the United States Auto Club (USAC) Rookie of the Year in 1991, was fifth in the 1993 USAC standings after winning the Hut Hundred, and was the National Midget series champion in 1994;

Whereas, In 1995 Tony Stewart set the racing world on fire by winning the National Midget, Sprint, and Silver Crown titles all in the same year, which was a feat never before accomplished, and earned him a ride in the newly developed Indy Racing League and Rookie of the Year honors in 1996;

Whereas, Tony Stewart won an Indy Racing League championship in 1997 and gained success in his NASCAR career by competing in both the Indianapolis 500 and the Coca-Cola 600 on the same day, driving more than 1,090 miles that day;

Whereas, Tony Stewart began the 1999 NASCAR season on a high note as he qualified in second place for the Daytona 500, his first Nextel Cup race before winning three races and being named NASCAR's Rookie of the Year;

Whereas, In 2002 Tony Stewart won the first of his two NASCAR championships, repeating in 2005 with his second Nextel Cup title;

Whereas, Tony Stewart continues to amaze and astound racing fans everywhere; and

Whereas, A champion in sprint cars, Indy cars, and stock cars, Tony Stewart is an exceptional athlete who gives back to his community in many ways: Therefore,

*Be it resolved by the House of Representatives
of the General Assembly of the State of Indiana,
the Senate concurring:*

SECTION 1. That the Indiana General Assembly congratulates Tony Stewart on his victory in the 2007 Allstate 400 at the Brickyard, wishes him continued success in the future, and thanks him for the many charitable contributions he has

made to his state and his country.

SECTION 2. That the Principal Clerk of the House of Representatives transmit a copy of this resolution to Tony Stewart.

The resolution was read in full and adopted by voice vote. The Chair instructed the Secretary to inform the House of the passage of the resolution.

SENATE MOTION

Madam President: I move that Senators Alting, Arnold, Becker, Boots, Bray, Breaux, Broden, Charbonneau, Deig, Delph, Dillon, Drozda, Errington, Ford, Gard, Hershman, Howard, Hume, Jackman, Kenley, Kruse, Lanane, Landske, Lawson, Lewis, Long, Lubbers, Meeks, Merritt, Miller, Mishler, Mrvan, Nugent, Paul, Riegsecker, Rogers, Simpson, Sipes, Skinner, Smith, Steele, Tallian, Waltz, Waterman, Weatherwax, Wyss, M. Young, R. Young, and Zakas be added as cosponsors of House Concurrent Resolution 10.

WALKER

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Arnold be added as cosponsor of Engrossed House Bill 1034.

KRUSE

Motion prevailed.

SENATE MOTION

Madam President: I move we adjourn until 1:30 p.m., Tuesday, February 5, 2008.

LAWSON

Motion prevailed.

The Senate adjourned at 2:58 p.m.

MARY C. MENDEL
Secretary of the Senate

REBECCA S. SKILLMAN
President of the Senate